

REMARKS

It is acknowledged that the foregoing amendments are submitted after final rejection. However, because the amendments do not introduce new matter or raise new issues, and because the amendments either place the application in condition for allowance or at least in better condition for appeal, entry thereof by the Examiner is respectfully requested.

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

I. Status of Claims

Claims 1, 3, 34 and 36 are currently amended. Support for these amendments can be found throughout the specification and can specifically be found in Example 1 of the specification (pages 64-65). Claims 28, 32 and 33 are canceled. No new claims are added. Upon entry of this paper, claims 1-5, 10, 16-22, 24, 29-31, 34-36, and 38-39 will remain pending and under active consideration.

Only one issue remains: indefiniteness.

II. Claim Rejection- 35 U.S.C. §112, second paragraph

Claims 1-5, 10, 16-22, 24, 28-36 and 38-39 are rejected under 35 U.S.C. § 112, second paragraph as allegedly indefinite. Specifically, the Office states that the specification is unclear with the meaning of the term “very small” as described in claim 28. (Office Action, page 2)

In an effort to advance prosecution of this application and without acquiescing to the propriety of this rejection, Applicants have canceled claim 28.

Additionally, Applicants have amended the claims to recite a method for producing a sustained-release **microsphere**. The term microsphere is clear to one of skill in the art. Additionally, as shown in Example 1, Applicants show the generation of microspheres by drying a w/o emulsion. For at least the reasons described above, Applicants respectfully request reconsideration and withdrawal of the rejection.

CONCLUSION

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date

Sept. 23, 2010


FOLEY & LARDNER LLP

Customer Number: 22428

Telephone: (202) 672-5569

Facsimile: (202) 672-5399

By



Stephen B. Maebius

Registration No. 35,264

Shine Tu

Registration No. 62,863